



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 19, 1996

Mr. Kevin D. Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR96-2145

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101858.

The City of McAllen (the "city") received a request for information pertaining to two related offense reports. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Chapter 552 of the Government Code imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general not later than the tenth calendar day after the date of receiving the written request. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302.

The city received the written request for information on July 31, 1996. However, you did not request a decision from this office until August 22, 1996, more than ten days after the requestor's written request. Therefore, we conclude that the city failed to meet its ten-day deadline for requesting an opinion from this office. Because the city did not request an attorney general decision within the deadline provided by section 552.301(a), the requested information is presumed to be public information. Gov't Code § 552.302; see *Hancock*, 797 S.W.2d 379; *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision Nos. 319 (1982), 195 (1978).

This presumption can be overcome only by a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public. *See, e.g.*, Open Records Decision Nos. 195 (1978), 150 (1977). Normally, a compelling interest is demonstrated when some other source of law makes the information confidential or when third party interests are at stake. Open Records Decision No. 150 (1977) at 2. Therefore, in the absence of a compelling interest, you must release the requested information.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad", written in a cursive style.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID# 101858

Enclosure: Submitted information

cc: Ms. Ermelinda Flores Ramirez
818 South 17 ^{1/2}
McAllen, Texas 78501
(w/o enclosure)